IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.3107 OF 2004

Shivkumar Chatrumal Achharya Plaintiff

versus

M/s.Thakoor Appliances Pvt.Ltd.
and another Defendants

Mr.A.P.Salunke i/by S.Ashwinikumar & Co. for plaintiff.

None for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th July 2005

PC :

1. Learned advocate appearing for plaintiff tenders an affidavit proving service. The same is taken on record and marked "X" for identification. He tenders compilation of original documents along with list. Same is also taken on record and marked "X-1" for identification.

2. There is no appearance filed by the defendants although they have duly received writ of summons. This is a summary suit where the

plaintiff is suing on the basis of four bills of exchange. They have been accepted by defendant no.2. Interest has also not been paid. The Bills of Exchange were presented on 20th September 2001 and upon presentation the first defendant forwarded four post dated cheques. Three cheques were of Rs.1.00 lakh each and fourth one was of Rs.70,000/-. These cheques were dishonoured by the bankers. Thereafter, repeatedly demands were made but the amounts have not been paid. Averments as referred to above would demonstrate that the plaintiff can maintain the claim under Order XXXVII of the Code of Civil Procedure. In the light of the fact that the suit has been filed on 20th September 2004 and the last payment by post dated cheques was of 21st September 2001, the claim is not barred by limitation. It is pointed out that the cheques were dishonoured on 28th September 2001. Thus, the plaintiff is entitled to a decree.

3. There shall be a decree as prayed. Refund of court fees and computation of advocates' costs as per rules.

(S.C.DHARMADHIKARI, J.)